IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

LUIS DANIEL COLON   PETITIONER

vs.   CIVIL ACTION No.: 3:16-CV-310-HTW-LRA

WARDEN B. E. BLACKMON   RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

BEFORE THIS COURT is the Report and Recommendation of the United States Magistrate Judge Linda Anderson **[Docket no. 13]**. In her Report and Recommendation, filed on May 30, 2018, Magistrate Judge Anderson recommended that the petitioner's Petition for Writ of Habeas Corpus **[Docket no. 1]** be DISMISSED because his petition should have been filed under the authority of Title 28 U.S.C. § 2255, not under Title 28 U.S.C. § 2241. Magistrate Judge Anderson directed the *pro se* petitioner to file any objections within fourteen (14) days. The petitioner has failed to do so.

Based upon the findings and recommendation contained in the Report and Recommendation **[Docket no. 15]**, this court finds it well-taken. Therefore, the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED** as the order of this court.

Accordingly, this order hereby **DISMISSES** this lawsuit **WITHOUT PREJUDICE** and orders that the parties are to bear their own costs.

A final order adverse to the petitioner having been filed in the captioned habeas corpus case, in which the detention complained of arises out of process issued by a state court or a proceeding pursuant to 28 U.S.C. § 2241, the court, considering the record in the case and the requirements of 28 U.S.C. § 2253, Rule 22(b) of the Federal Rules of Appellate Procedure, and

Rule 11(a) of the Rules Governing Section 2241 Cases in the United States District Courts, hereby finds that:

A Certificate of Appealability should not issue. The applicant has failed to make a substantial showing of the denial of a constitutional right.

SO ORDERED AND ADJUDGED this the 23rd day of July, 2018.

s/ HENRY T. WINGATE
UNITED STATES DISTRICT COURT JUDGE

Order Adopting Report and Recommendation
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